

§ 572.400

24 CFR Ch. V (4–1–10 Edition)

part, these provisions will be recodified.

[61 FR 48798, Sept. 16, 1996]

Subpart E—Other Federal Requirements

§ 572.400 Consolidated plan.

Applicants must provide a certification of consistency with the approved consolidated plan, in accordance with 24 CFR 91.510.

[60 FR 36018, July 12, 1995]

§ 572.405 Nondiscrimination and equal opportunity requirements.

In addition to the nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5, the following requirements apply to homeownership programs under this part:

(a) *Modification of fair housing and nondiscrimination requirements for Indian tribes and IHAs.* (1) The Indian Civil Rights Act (25 U.S.C. 1301 *et seq.*) applies to tribes when they exercise their powers of self-government. Thus, it is applicable in all cases when an IHA has been established by exercise of such powers. In the case of the IHA established pursuant to State law, the applicability of the Indian Civil Rights Act shall be determined on a case-by-case basis. Development subject to the Indian Civil Rights Act must be developed and operated in compliance with its provisions and all implementing HUD requirements, instead of title VI and the Fair Housing Act and their implementing regulations.

(2) In the case of Indian tribes and IHAs, compliance with the requirements of this section shall be to the maximum extent consistent, but not in derogation of, the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)).

(b) *Affirmative fair housing marketing.* The recipient must adopt a strategy for informing and soliciting applications from people who are least likely to apply, because of race, color, religion, sex, disability, familial status, or national origin, for the program without special outreach, consistent with the affirmative fair housing marketing requirements. (See 24 CFR 92.351 for an example of an affirmative strategy.)

Paragraph (b) of this section does not apply to Indian tribes and IHAs, as described in paragraph (a)(1) of this section.

(c) *Authority for collection of racial, ethnic, and gender data.* HUD requires submission of racial, ethnic, and gender data under this part under the authority of section 562 of the Housing and Community Development Act of 1987 and section 808(e)(6) of the Fair Housing Act.

(d) *Faith-based activities.* (1) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the HOPE 3 program. Neither the Federal government nor a State or local government receiving funds under HOPE 3 programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(2) Organizations that are directly funded under the HOPE 3 program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

(3) A religious organization that participates in the HOPE 3 program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct HOPE 3 funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide HOPE 3-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a HOPE 3-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's